

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

LEROY SMITH, #177456 §  
VS. § CIVIL ACTION NO. 6:09cv185  
NATHANIEL QUARTERMAN, ET AL. §

ORDER OF DISMISSAL

Plaintiff Leroy Smith, a prisoner confined in the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil lawsuit complaining about the medical care he had received. The complaint was referred to United States Magistrate Judge John D. Love, who issued a Report and Recommendation concluding that the Defendants' motion to dismiss the lawsuit for failure to exhaust administrative remedies should be granted. The Plaintiff has filed objections.

The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections by the Plaintiff are without merit. The Report and Recommendation explained that the Plaintiff had a potentially meritorious lawsuit regarding the medical care provided to him, particularly with respect to the denial of dentures claim. Nonetheless, under 42 U.S.C. § 1997e(a), he is required to exhaust his administrative remedies before bringing a lawsuit. *See Jones v. Bock*, 549 U.S. 199

(2007); *Woodford v. Ngo*, 548 U.S. 81, 84 (2006); *Booth v. Churner*, 532 U.S. 731 (2001). The Plaintiff's objections arguing that he should be permitted to proceed with his claims despite his failure to exhaust his administrative remedies lack merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

**ORDERED** that the Defendants' motion to dismiss (docket entry #25) is **GRANTED**. It is further

**ORDERED** that the lawsuit is **DISMISSED** without prejudice. It is finally

**ORDERED** that all motions by either party not previously ruled on are hereby denied.

**So ORDERED and SIGNED this 5th day of October, 2009.**

A handwritten signature in black ink, appearing to read "LEONARD DAVIS", is written over a horizontal line. The signature is fluid and cursive, with a large, stylized initial 'L' on the left and a more formal 'DAVIS' on the right.

---

**LEONARD DAVIS**  
**UNITED STATES DISTRICT JUDGE**